



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-3104
December 15, 2020

Ms. Jeanine Bennett
General Counsel
Miccosukee Tribe of Indians of Florida
P.O. Box 440021 Tamiami Station
Miami, Florida 33144

Subject: Consultation and Coordination on the Environmental Protection Agency's Action on the State of Florida's Request to Assume Administration of a CWA Section 404 Program

Dear Ms. Bennett:

Thank you for the email dated December 9, 2020, requesting further consultation with the EPA and the U.S. Army Corps of Engineers (Corps) regarding the State of Florida's assumption of Section 404 permitting.

As you know, on August 31, 2020, the EPA extended the opportunity for consultation and coordination with the Miccosukee Tribe of Indians of Florida (MTIF) on the EPA's upcoming decision to approve or disapprove Florida's request to assume administration of a Clean Water Act (CWA) Section 404 program for certain State waters. The EPA appreciates the MTIF's active participation in the consultation process. We have received, reviewed, and considered your comments.

With regard to your most recent request, we understand that you seek to have further engagement regarding whether specific lands constitute Indian country under the definition set forth at 18 U.S.C. § 1151. The EPA believes that case-specific questions regarding what lands meet the definition of Indian country should be considered on a case-by-case basis during implementation. However, should the EPA approve Florida's assumption of the CWA Section 404 program, EPA stands ready to discuss these matters with the MTIF in January and will be available to meet with the MTIF and the relevant permitting authority as specific instances arise.

If you have any questions regarding this letter, please do not hesitate to call me at (404) 562-9345 or have a member of your staff contact Mr. Kelly Laycock at (404) 562-9132 or via email laycock.kelly@epa.gov.

Sincerely,

JEANEANNE GETTLE

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GETTLE
Date: 2020.12.15 11:10:57 -05'00'

Jeanne M. Gettle, Director
Water Division